

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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THOMAS C. WILLIAMS,

Plaintiff,

-v-

3:24-CV-942 (AJB/ML)

FREDERICK J. AKSHAR, II,  
Sheriff,

Defendant.

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**APPEARANCES:**

**OF COUNSEL:**

THOMAS C. WILLIAMS  
Plaintiff, Pro Se  
001 Off-Ramp 7 South Base Masters  
Binghamton, NY 13901-4077

**Hon. Anthony Brindisi, U.S. District Judge:**

**ORDER ON REPORT & RECOMMENDATION**

On July 31, 2024, *pro se* plaintiff Thomas C. Williams (“plaintiff”) filed this civil rights action against defendant Frederick J. Akshar, II. Dkt. No. 1. Along with his complaint, plaintiff also moved for leave to proceed *in forma pauperis* (“IFP Application”), Dkt. Nos. 2, 3, and for the appointment of counsel, Dkt. No. 4.

On August 1, 2024, U.S. Magistrate Judge Miroslav Lovric denied plaintiff’s IFP Application because it contained incorrect information and was incomplete. Dkt. No. 6. Judge Lovric gave plaintiff a thirty-day period in which to either pay the filing fee in full or to submit a completed, accurate IFP Application. *Id.* At that time, Judge Lovric cautioned plaintiff that he had an ongoing obligation to comply with the Court’s orders, including the requirement that he

keep his mailing address and contact information accurate<sup>1</sup> and up to date. *Id.* Failure to do so, Judge Lovric warned, would result in sanctions, including dismissal of this action. *Id.* Judge Lovric denied plaintiff's motion for counsel without prejudice later that day. Dkt. No. 7.

These orders, which were mailed to plaintiff's address on file with the Clerk's Office, were soon returned as undeliverable. Dkt. No. 8. Thereafter, plaintiff filed notices of change of address. Dkt. Nos. 9, 10. When the thirty-day deadline imposed in his August 1, 2024 Order expired, Judge Lovric issued an order directing plaintiff to show cause by October 16, 2024 why this action should not be dismissed "for failure of Plaintiff to comply with Court Order[s], failure to pursue this litigation, and failure to pay the filing fee to commence this litigation." Dkt. No. 11. Again, Judge Lovric cautioned plaintiff that his failure to comply with this or other Court orders or directives "may result in dismissal of this case." *Id.*

This show-cause order, which was mailed to plaintiff's updated address on file, was also returned as undeliverable. Dkt. No. 12. So when the October 16, 2024 deadline expired without any filings from plaintiff, Judge Lovric issued a second order directing plaintiff to show cause by October 31, 2024 why this action should not be dismissed based on plaintiff's ongoing failure to comply with Court orders or to diligently pursue this litigation. Dkt. No. 13. That deadline also expired without any filings from plaintiff. *See id.*

On November 15, 2024, Judge Lovric advised by Report & Recommendation ("R&R") that plaintiff's complaint be *sua sponte* dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure based on his repeated failure to comply with the Court's orders or, alternatively,

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<sup>1</sup> For instance, plaintiff's complaint listed his address as the Broome County Jail, Dkt. No. 1, but he commenced this action by filing it in person at the Binghamton Clerk's Office.

as frivolous. Dkt. No. 14. The matter has been reassigned to this Court for a decision. Dkt. No. 16.

Plaintiff has not lodged objections to Judge Lovric's R&R. The time period in which to do so has expired. *See* Dkt. No. 14. Upon review for clear error, the R&R will be accepted and adopted. *See* FED. R. CIV. P. 72(b). Notably, the latest mailing to plaintiff's current address on file has again been returned as undeliverable. Dkt. No. 15. The Court therefore agrees with Judge Lovric's conclusion that, despite plaintiff's *pro se* status, a lesser sanction than dismissal of his pleading (such as a further written warning or small monetary sanction) would be futile or ineffective under the circumstances.

Therefore, it is

ORDERED that

1. The Report & Recommendation (Dkt. No. 14) is ACCEPTED; and
2. Plaintiff's complaint is DISMISSED pursuant to Rule 41(b).

The Clerk of the Court is directed to terminate the pending motion, enter a judgment accordingly, and close the file.

**IT IS SO ORDERED.**

  
Anthony J. Brindisi  
U.S. District Judge

Dated: January 10, 2025  
Utica, New York.